

P O R T E R | S C O T T

A PROFESSIONAL CORPORATION

Carl L. Fessenden, SBN 161494

cfessenden@porterscott.com

Matthew R. Mendoza, SBN 344482

mmendoza@porterscott.com

2180 Harvard Street, Suite 500

Sacramento, California 95815

TEL: 916.929.1481

FAX: 916.927.3706

Attorneys for Defendants

ROBERT BALKE (erroneously sue as Robert Balk) and JUSTIN KNIGHT

Exempt from Filing Fees Pursuant to Government Code § 6103

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

AARON BUSTAMANTE, an individual,

CASE NO. 2:23-CV-01552-TLN-DMC

Plaintiff,

**STIPULATED PROTECTIVE ORDER
REGARDING PRODUCTION OF RECORDS
AND FOR FILING UNDER SEAL**

v.

Complaint Filed: 07/28/23

COUNTY OF SHASTA; ROBERT BALK, in
his individual and official capacity as a
Probation Officer of the COUNTY OF
SHASTA; JUSTIN KNIGHT, in his
individual capacity as a Probation Officer of
the COUNTY OF SHASTA; and DOES 1-20
inclusive,

Defendants,

1. **PURPOSES AND LIMITATIONS**

Defendant believes that the disclosure and discovery activity concerning the materials described in this stipulated protective order is likely to involve production of information for which protection from public disclosure would be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from

public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal. A Party that seeks to file under seal any Protected Material must comply with California Rules of Court 2.550 and 2.551.

2. DEFINITIONS

The following definitions shall apply to this Protective Order:

2.1 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored, or maintained) or tangible things that the Designating Party believes in good faith is entitled to protective treatment under applicable law. Confidential Information shall not include publicly available information.

2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well as their support staff).

2.4 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

2.5 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this action.

2.7 House Counsel: attorneys who are employees of a party to this action. House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.8 Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

2.9 Outside Counsel of Record: attorneys who are not employees of a party to this action but are retained to represent or advise a party to this action and have appeared in this action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

2.10 Party: any party to this action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this action.

2.12 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.13 Protected Material: any Disclosure or Discovery Material that is designated as “CONFIDENTIAL.”

2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

3. INFORMATION COVERED

1. Shasta County Employee Robert Balke Performance Evaluations (DEFS 00273 – DEFS 00285);
2. Shasta County Employee Justin Knight Performance Evaluations (DEFS 00286 – DEFS 00334);
3. Shasta County Employee Justin Knight Reprimands (DEFS 00335 – DEFS 00381);
4. Shasta County Employee Justin Knight Employment Application containing sensitive private information (DEFS 00382 – DEFS 00394);
5. Shasta County Employee Justin Knight Promotion File (DEFS 00395 – DEFS 00417); and,
6. Shasta County Employee Robert Balke Promotion File (DEFS 00418 – DEFS 00428).

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material. However, the protections conferred by this Stipulation and Order do not cover the following information: (a) any information that is in the public domain at the time of disclosure to a Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of publication not involving a violation of this Order, including

1 becoming part of the public record through trial or otherwise; and (b) any information known to the
2 Receiving Party prior to the disclosure or obtained by the Receiving Party after the disclosure from a
3 source who obtained the information lawfully and under no obligation of confidentiality to the Designating
4 Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

5 Particularized Need for Protection:

6 Plaintiff has requested defendants JUSTIN KNIGHT and ROBERT BALKE employee files.
7 Pursuant to Local Rule 141.1(c)(2), Defendants assert that there exists a specific, particularized need for
8 protection as to the information covered by this stipulated protective order. Defendants represent to the
9 Court and Plaintiff that the materials designated to be covered by this stipulated protective order are
10 limited solely to those which would qualify for protection under Federal Rule of Civil Procedure 26(c),
11 and does not include information designated on a blanket or indiscriminate basis. *See, e.g., In Re Roman*
12 *Catholic Archbishop of Portland*, 661 F.3d 417, 424 (9th Cir. 2011).

13 **4. DURATION**

14 Even after final disposition of this litigation, the confidentiality obligations imposed by this Order
15 shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise
16 directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and defenses in this
17 action, with or without prejudice; and (2) final judgment herein after the completion and exhaustion of all
18 appeals, rehearings, remands, trials, or reviews of this action, including the time limits for filing any
19 motions or applications for extension of time pursuant to applicable law.

20 **5. DESIGNATING PROTECTED MATERIAL**

21 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or Non-
22 Party that designates information or items for protection under this Order must take care to limit any such
23 designation to specific material that qualifies under the appropriate standards. The Designating Party must
24 designate for protection only those parts of material, documents, items, or oral or written communications
25 that qualify – so that other portions of the material, documents, items, or communications for which
26 protection is not warranted are not swept unjustifiably within the ambit of this Order.

27 Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be
28 clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber or

1 retard the case development process or to impose unnecessary expenses and burdens on other parties)
2 expose the Designating Party to sanctions.

3 If it comes to a Designating Party's attention that information or items that it designated for protection do
4 not qualify for protection, that Designating Party must promptly notify all other Parties that it is
5 withdrawing the mistaken designation.

6 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see, e.g.,
7 second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery
8 Material that qualifies for protection under this Order must be clearly so designated before the material is
9 disclosed or produced.

10 Designation in conformity with this Order requires:

11 (a) for information in documentary form (e.g., paper or electronic documents, but excluding
12 transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix the legend
13 "CONFIDENTIAL" to each page that contains protected material. If only a portion or portions of the
14 material on a page qualifies for protection, the Producing Party also must clearly identify the protected
15 portion(s) (e.g., by making appropriate markings in the margins).

16 A Party or Non-Party that makes original documents or materials available for inspection need not
17 designate them for protection until after the inspecting Party has indicated which material it would like
18 copied and produced. During the inspection and before the designation, all of the material made available
19 for inspection shall be deemed "CONFIDENTIAL." After the inspecting Party has identified the
20 documents it wants copied and produced, the Producing Party must determine which documents, or
21 portions thereof, qualify for protection under this Order. Then, before producing the specified documents,
22 the Producing Party must affix the "CONFIDENTIAL" legend to each page that contains Protected
23 Material. If only a portion or portions of the material on a page qualifies for protection, the Producing
24 Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the
25 margins).

26 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
27 Designating Party identify on the record, before the close of the deposition, hearing, or other proceeding,
28 all protected testimony.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information or item is stored the legend “CONFIDENTIAL.” If only a portion or portions of the information or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party’s right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a confidentiality designation by electing not to mount a challenge promptly after the original designation is disclosed.

6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process by providing written notice of each designation it is challenging and describing the basis for each challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must recite: “THIS IS A CHALLENGE TO CONFIDENTIALITY” in accordance with this specific paragraph of the Protective Order. The parties shall attempt to resolve each challenge in good faith and must begin the process by conferring directly (in voice-to-voice dialogue; other forms of communication are not sufficient) within 14 days of the date of service of notice. In conferring, the Challenging Party must explain the basis for its belief that the confidentiality designation was not proper and must give the Designating Party an opportunity to review the designated material, to reconsider the circumstances, and, if no change in designation is offered, to explain the basis for the chosen designation. A Challenging Party may proceed to the next stage of the challenge process only if it has engaged in this meet and confer process first or establishes that the Designating Party is unwilling to participate in the meet and confer process in a timely

manner.

6.3 Judicial Intervention. If after meeting and conferring in good faith it is determined that the dispute cannot be resolved without judicial intervention, the Designating Party may file a motion to retain confidentiality designation within 21 days of the initial notice of challenge or within 14 days of the parties agreeing that the meet and confer process will not resolve their dispute, whichever is earlier. Each such motion must be accompanied by a competent declaration affirming that the movant has complied with the meet and confer requirements imposed in the preceding paragraph. Failure by the Designating Party to make such a motion including the required declaration within 21 days (or 14 days, if applicable) shall automatically waive the confidentiality designation for each challenged designation. In addition, the Challenging Party may file a motion challenging a confidentiality designation at any time if there is good cause for doing so, including a challenge to the designation of a deposition transcript or any portions thereof. Any motion brought pursuant to this provision must be accompanied by a competent declaration affirming that the movant has complied with the meet and confer requirements imposed by the preceding paragraph.

The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived the confidentiality designation by failing to file a motion to retain confidentiality as described above, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the court rules on the challenge.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this case only for prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the litigation has been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure

manner that ensures that access is limited to the persons authorized under this Order.

7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “CONFIDENTIAL” only to:

(a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) the court and its personnel;

(e) court reporters and their staff, professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order.

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels

disclosure of any information or items designated in this action as “CONFIDENTIAL,” that Party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.

If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as “CONFIDENTIAL” before a determination by the court from which the subpoena or order issued, unless the Party has obtained the Designating Party’s permission. The Designating Party shall bear the burden and expense of seeking protection in that court of its confidential material – and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from another court.

9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS LITIGATION

(a) The terms of this Order are applicable to information produced by a Non-Party in this action and designated as “CONFIDENTIAL.” Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party’s confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party’s confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific description of the information

requested; and

(3) make the information requested available for inspection by the Non-Party.

(c) If the Non-Party fails to object or seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Party that certain inadvertently produced material is subject to a claim of privilege or other protection, the Receiving Party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the Receiving Party disclosed it before being notified. The Producing Party must preserve the information until the claim is resolved.

The inadvertent waiver of the trade secret or other privilege by any Party as to any document or confidential material shall not constitute or be construed as a waiver of the trade secret or other privilege as to any other document or item of confidential material.

1 **12. MISCELLANEOUS**

2 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its
3 modification by the court in the future.

4 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no
5 Party waives any right it otherwise would have to object to disclosing or producing any information or
6 item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right
7 to object on any ground to use in evidence of any of the material covered by this Protective Order.

8 12.3 Filing Protected Material. Without written permission from the Designating Party or a court
9 order secured after appropriate notice to all interested persons, a Party may not file in the public record in
10 this Action any Protected Material. A Party that seeks to file under seal any Protected Material must
11 comply with California Rules of Court 2.550 and 2.551, and it is the filing party's obligation to file any
12 necessary motions to seal pursuant to said provisions. Protected Material may only be filed under seal
13 pursuant to a court order authorizing the sealing of the specific Protected Material at issue.

14 **13. FINAL DISPOSITION**

15 Within 60 days after the final disposition of this action, as defined in paragraph 4, each Receiving
16 Party must return all Protected Material to the Producing Party or destroy such material. As used in this
17 subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any other
18 format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned
19 or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not
20 the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category,
21 where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the
22 Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format
23 reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are
24 entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
25 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product,
26 and consultant and expert work product, even if such materials contain Protected Material. Any such
27 archival copies that contain or constitute Protected Material remain subject to this Protective Order as set
28 forth in Section 4 (DURATION).

1 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

2
3
4 Dated: June 14, 2024

PORTER SCOTT
A Professional Corporation

5
6
7 By: /s/
8 Carl L. Fessenden
9 Matthew R. Mendoza
10 Attorneys for Defendants
JUSTIN KNIGHT and ROBERT BALKE

11 Dated: _____

Barr And Mudford, LLP

12
13
14 By: /s/
15 Brandon Storment
Attorney for Plaintiff

16 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

17
18 Dated: June 14, 2024

19 
20 DENNIS M. COTA
21 UNITED STATES MAGISTRATE JUDGE
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court, Eastern District of California, on [date] in the case of *Aaron Bustamante v. County of Shasta, et al.*, Court Case No. 2:23-cv-01552-TLN-DMC. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court, Eastern District of California, for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____